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Emeka John Paul v Public Prosecutor

B COURT OF APPEAL (PUTRAJAYA) — CRIMINAL APPEAL NO B-05–95–04 OF 2015 (NGA)
PRASAD ABRAHAM, VARGHESE VARUGHESE AND ABDUL KARIM ABDUL JALIL JCA
26 APRIL 2016

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Criminal Law — Dangerous drugs — Trafficking — Appeal against conviction and sentence — Dangerous drugs recovered from appellant's stomach — Whether there were discrepancies in gross weight of drugs recovered — Whether due to discrepancies in weight of drugs recovered there had been a break in chain of D *evidence and doubts as to identity of drugs seized — Whether there was reasonable explanation for differences in weight — Whether appellant had no knowledge of drugs in capsules discharged from his stomach*

On 28 February 2012, while the appellant was exiting the arrival hall in the E Kuala Lumpur International Airport, he was stopped and searched but nothing was found in his possession. The appellant was then taken to Serdang Hospital for an X-ray. The X-ray examination of the appellant's abdomen showed the presence of foreign objects in his stomach. The appellant was then held at a ward in the hospital and watched over by police officers until he had fully F discharged the foreign objects in his stomach. After each excretion of capsules, the appellant was asked to sign a search list that was prepared by a police officer ('SP2'), who was recording the capsules excreted. Between the period 29 February 2012–1 March 2012, a total of 82 capsules, which were recovered from the appellant's bowel movements, were analysed by the chemist ('SP4') G and confirmed to be 730.9g of methamphetamines. The appellant was charged with trafficking in 730.9g of methamphetamines, an offence under s 39B(1)(a) of the Dangerous Drugs Act 1952. The trial judge, who heard the case, who had since retired, recorded a finding that a prima facie case had been established and ordered the appellant to enter his defence. The trial judge, who took over H the case at the defence stage, explained to the appellant the options available to him with regard to the charge. The appellant chose to give evidence on oath and was found guilty as charged, convicted and sentenced to death. Hence the present appeal against the appellant's conviction and sentence. The appellant submitted that there were discrepancies in the gross weight of the drugs I recovered. The appellant contended that due to the contradiction between SP2 and SP4 with regards to the weight of the drugs recovered there had been a break in the chain of evidence and doubts as to the identity of the drugs actually seized from him. The appellant also submitted that he had no knowledge of the drugs in the capsules discharged from his stomach. According to the appellant,

he had swallowed the capsules as instructed by one Oneka thinking they contained 'silver'. In response the prosecution argued that although there were differences in the gross weight and net weight of the drugs recovered, this difference was merely because of the difference of the weighing machine used in which one was calibrated and the other was not. As such, the prosecution submitted that the chain of evidence was not broken.

Held, dismissing the appeal:

(1) The prosecution had provided a reasonable explanation for the differences in the weight of the drugs as testified by SP2 and SP4 being due to the fact that the weighing machine used by the police ('SP2') was uncalibrated whereas the weighing machine used by SP4 was calibrated. The appellant's argument that there was a break in the chain of evidence was merely on the premise that there were differences in weight of the drugs. However, there was no break in the chain of evidence as the drug exhibits from the time of their recovery from the person of the appellant to the time of handing over to SP4 were always in the custody of the police. There was no physical break and it had not affected the integrity of the evidence. As such, the appellant's argument was unsustainable (see paras 10–11 & 14).

(2) On the facts of this case the defence of the appellant that the capsules were 'silver' was clearly unbelievable. There had been overwhelming evidence against the appellant and the fact that the drugs were found in the appellant's stomach was not in dispute. There was also no reason proffered as to the need for him to swallow 'silver'. In the circumstances the issue of no knowledge was implausible and unsustainable. The totality of evidence reasonably supported the conclusion that the appellant was in actual possession at the time he was arrested and detained (see paras 17–18 & 20–21).

(3) The conviction and sentence imposed by the High Court were thus affirmed (see para 21).

[Bahasa Malaysia summary

Pada 28 Februari 2012, semasa perayu keluar daripada dewan ketibaan di Lapangan Terbang Antarabangsa Kuala Lumpur, dia ditahan dan diperiksa tetapi tiada apa-apa ditemui dalam milikannya. Perayu kemudiannya dibawa ke Hospital Serdang bagi menjalankan X-ray. Pemeriksaan X-ray abdomen perayu menunjukkan kehadiran objek asing di dalam perutnya. Perayu kemudiannya ditahan di wad di hospital dan dijaga oleh pegawai-pegawai polis sehingga objek asing dikeluarkan daripada perutnya. Selepas pengumuhan kapsul-kapsul tersebut, perayu disuruh menandatangani senarai carian yang disediakan oleh pegawai polis ('SP2'), yang merekodkan kapsul-kapsul yang dikumuhkan. Di antara tempoh 29 Februari 2012–1 Mac 2012, sejumlah 82

kapsul, yang ditemui daripada pergerakan usus perayu, dianalisa oleh ahli kimia ('SP4') dan disahkan methamphetamine seberat 730.9g. Perayu dituduh mengedar dadah methamphetamine seberat 730.9g, kesalahan di bawah s 39B(1)(a) Akta Dadah Berbahaya 1952. Hakim perbicaraan yang mendengar kes tersebut, yang telah bersara, merekodkan dapatan bahawa kes prima facie telah dibuktikan dan memerintahkan perayu memasuki pembelaannya. Hakim perbicaraan, yang mengambil alih kes tersebut pada peringkat pembelaan, menjelaskan kepada perayu opsyen yang terdapat untuknya berkaitan tuduhan tersebut. Perayu memilih untuk memberi keterangan bersumpah dan didapati bersalah seperti dituduh, disabitkan dan dijatuhkan hukuman mati. Maka rayuan ini terhadap sabitan dan hukuman perayu. Perayu berhujah bahawa terdapat percanggahan di dalam berat kasar dadah yang ditemui. Perayu berhujah bahawa akibat percanggahan di antara SP2 dan SP4 berkaitan berat dadah yang ditemui berlaku terputusnya rantaian keterangan dan keraguan terhadap identiti dadah yang dirampas sebenarnya daripada perayu. Perayu juga berhujah bahawa dia tidak mempunyai pengetahuan mengenai dadah di dalam kapsul yang dikeluarkan daripada perutnya. Mengikut perayu, dia telah menelan kapsul-kapsul seperti yang diarahkan oleh seorang bernama Oneka dengan berfikir ia mengandungi 'silver'. Dalam menjawab, pihak pendakwaan berhujah bahawa walaupun terdapat perbezaan dalam berat kasar dan berat bersih dadah yang ditemui, perbezaan ini hanya kerana perbezaan mesin penimbang yang digunakan di mana satu ditentukur dan yang satu lagi tidak. Dengan itu, pihak pendakwaan berhujah bahawa rantaian keterangan tidak terputus.

Diputuskan, menolak rayuan:

(1) Pihak pendakwaan telah memberikan penjelasan munasabah bagi perbezaan dalam berat dadah yang diterangkan oleh SP2 dan SP4 kerana fakta mesin penimbang yang digunakan oleh polis ('SP2') tidak ditentukur sebaliknya mesin penimbang yang digunakan oleh SP4 telah ditentukur. Hujahan perayu bahawa terdapat rantaian keterangan yang terputus semata-mata berdasarkan bahawa terdapat perbezaan dalam berat dadah. Walau bagaimanapun, tidak terdapat rantaian keterangan yang terputus kerana dadah yang diekshibitkan dari masa penemuan daripada perayu sehingga masa menyerahkannya kepada SP4 sentiasa di dalam jagaan polis. Tidak terdapat fizikal yang terputus dan ia tidak menjejaskan integriti keterangan tersebut. Oleh itu, hujahan perayu tidak boleh dipertahankan (lihat perenggan 10–11 & 14).

(2) Atas fakta kes ini pembelaan perayu bahawa kapsul-kapsul adalah 'silver' jelas tidak boleh dipercayai. Terdapat keterangan yang kukuh terhadap perayu dan fakta bahawa dadah dijumpai di dalam perut perayu tidak dipertikaikan. Juga tidak terdapat sebab yang diberikan kepada keperluannya untuk menelan 'silver'. Dalam keadaan ini, isu tidak mempunyai pengetahuan tidak boleh dipercayai dan tidak dapat

dipertahankan. Keseluruhan keterangan secara munasabah menyokong kesimpulan bahawa perayu sebenarnya dalam milikan sebenar pada masa dia ditangkap dan ditahan (lihat perenggan 17–18 & 20–21).

(3) Sabitan dan hukuman yang dikenakan oleh Mahkamah Tinggi oleh itu disahkan (lihat perenggan 21).]

Notes

For cases on trafficking, see 4(1) *Mallal's Digest* (5th Ed, 2015) paras 815–975.

Cases referred to

Abuchi Johnson v PP [2015] 1 LNS 1225, CA (refd)
Lew Wai Loon v PP [2014] 3 MLJ 325; [2014] 2 CLJ 649, FC (refd)

Appeal from: Criminal Trial No 45A-210–09 of 2012 (High Court, Shah Alam)

Stanley Augustin (Stanley Augustin & Co) for the appellant.
Amir bin Nasruddin (Deputy Public Prosecutor, Attorney General's Chambers) for the respondent.

Prasad Abraham JCA (delivering judgment of the court):

[1] The appellant was convicted and sentenced to death by the High Court at Shah Alam on the following amended charge:

> Bahawa kamu pada 28.2.2012 hingga 1.3.2012 jam lebih kurang antara 11.30 malam hingga 4.05 petang di Wad 6C, Bulk 28, Hospital Serdang, di dalam daerah Sepang, di dalam Negeri Selangor Darul Ehsan telah memperedarkan dadah merbahaya iaitu Methamnphetamine sejumlah berat 730.9 gram dan oleh yang demikian, kamu telah melakukan kesalahan di bawah Seksyen 39B(1)(a) Akta Dadah Berbahaya 1952 dan boleh dihukum di bawah Seksyen 39B(2) Akta yang sama.

[2] Aggrieved by the conviction and sentence, the appellant appealed to the Court of Appeal. We heard the appeal on 26 February 2016, at the end of which we unanimously dismissed the appeal and we affirmed the conviction and sentence. We now give our reasons.

FACTS

[3] Briefly, the factual scenario which led to the arrest of the appellant on 28 February 2012 were as follows:

(a) on 28 February 2012, Insp Mohd Suhaimi bin Sulaiman ('SP1') with his team arrested the appellant at the Arrival Hall KLIA Sepang, Selangor;

(b) SP1 inspected the appellant and his back pack, and nothing was found in his possession;

(c) SP1 then took the appellant to Serdang Hospital. At Serdang Hospital D/Sjn Mohd Mahsud bin Hj Sahid with his team brought the appellant for an X-ray. The X-ray was conducted on the appellant by Dr Benedict Dhamaraj a/l Ratna Padia ('SP5') and upon examination, found foreign objects in the appellant's abdomen ('perut'). Dr Ezamin ('SP6'), a radiologist specialist, confirmed these findings;

(d) the appellant was then held at the ward in the Hospital for the substances found in his abdomen which were suspected to be drugs;

(e) between the periods from 3.15am till 3.15am on 29 February 2012 to 1 March 2012, a total of 82 capsules were extracted from the appellant's stomach. While the appellant was in Wad 6C for decontamination, he was watched over by police officers from Bahagian Siasatan Jenayah Narkotik IPD Sepang;

(f) after each excretion of capsules, a search list was prepared by SP2 and SP7 and the appellant was asked to sign the same; and

(g) all the capsules were later sent to the chemist ('SP4') for analysis by SP2 and SP7. On analysis the chemist confirmed that the substance found in the capsules were the dangerous drugs methamphetamine amounting to a net weight of 730.9g.

[4] An unusual feature of this criminal proceedings was that the learned judicial commissioner who heard the case retired from the judiciary after the close of the prosecution case. Before her retirement, the learned judicial commissioner had however made and recorded a finding that a prima facie case had been established and had ordered the appellant to enter his defence.

[5] The learned trial judge who took over the case at the defence stage had the charge read over to the appellant and had explained the three options available to the appellant. The appellant chose to give evidence on oath.

[6] The appellant was found guilty as charged; he was convicted and sentenced to death. Hence this appeal.

THE APPEAL

[7] The first issue advanced by the appellant was that there were discrepancies in the gross weight of the drugs. The testimony of SP2 and his report was that capsules recovered were in total of 82 capsules weighing 1189g. The testimony of SP4 however stated that there were 82 capsules weighing 954.2g. It was highlighted to us that there was a difference with regard to the

weight of drugs between SP2 and SP4 and that difference of 234.8g was substantial.

[8] Learned counsel for the appellant contended that due to this contradiction between SP2 and SP4 with regards to the weight of the drugs recovered there was a break in the chain of evidence and doubts as to the identity of the drugs actually seized from the appellant.

[9] Learned counsel for the appellant further submitted that the appellant had no knowledge of the drugs in the capsules discharged from his stomach. The appellant had contended that he thought that the capsules contained 'silver' as was instructed by one Oneka who made him swallow those capsules before he boarded the flight at Niger and transited at Dubai before he was arrested in Malaysia.

OUR DECISION

[10] Having heard the appeal, we found no merit in the two principal grounds raised by the appellant before us as above. We now give our reasons.

[11] The learned deputy public prosecutor argued that based on the testimony given by SP8 that the differences in the weight of the drugs testified by SP2 and SP4 was due to the fact that the weighing machine used by the police was uncalibrated whereas the weighing machine used by the chemist was calibrated. The excerpts of the examination-in-chief of SP8 (p 209 AR Vol 3) are produced:

S: Kamu timbang di mana untuk kedua-dua barang kes yang diterima?

J: Saya timbang di pejabat saya mesin penimbang yang berada di pejabat narkotik

S: Adakah mesin tersebut dikalibrasi?

J: Tidak ada, mesin tersebut tidak dikalibrasi

S: Kamu ingat lagi jumlah timbangan untuk 18 dan 19 kapsul?

J: Tak ingat

S: Kamu ada catit?

J: Ya.

An excerpt from the report made by SP4 with regards to the calibration of the weighing machine (p 431 AR Vol 4) is now produced:

Saya memulakan analisis dengan menimbang berat kasar iaitu berat bungkusan plastik bersama kandungannya (ketulan bersama bahan Kristal jernih). Kemudian saya telah mengeluarkan bahan Kristal dan menimbang bungkusan plastik bersama

ketulan kosong pula. Berat bersih ialah seliseh antara berat kasar dan berat bungkusan plastik bersama ketulan kosong. Alat penimbang yang telah saya gunakan adalah berfungsi dengan sempurna dan telah dikalibarasikan ...

An excerpt of the cross-examination of SP4 (p 122 AR Vol 2) is now produced:

S: Kita bercerita tentang satu mesin dan boleh ceritakan penyelenggaraan mesin ini?

J: Penyelenggaran peralatan ini dilakukan setiap minggu dan penyelenggaran berkala akan dilakukan oleh vendor kepada peralatan ini mengikut jadualnya.

S: Yang akan mengetahui sama ada mesin ini berfungsi dengan tepat atau tidak adalah vendor kepada mesin ini?

J: Tidak, semasa melakukan penyelenggaraan setiap minggu dan sebelum saya menjalankan analisis pada peralatan tersebut saya akan memastikan data-data ini memenuhi ciri-ciri di mana peralatan ini berfungsi dengan sempurna.

S: Apa yang saya cuba sampaikan adalah sebagaimana saya tidak mempertikaikan kepakaran doctor dalam bidang kimia, saya juga percaya doctor tidak mempertikaikan vendor Dr. dalam pengendalian dan penyelenggaraan mesin-mesin yang mereka supply, setuju?

J: Setuju.

S: Orang yang mempunyai kepakaran dalam penyelenggaraan termasuk juga penyelenggaraan berkala bagi mesin ini adalah vendor kepada JKM bukan ahli kimia?

J: Tidak setuju.

S: Kenapa Dr. tidak setuju, jelaskan?

J: Saya mempunyai kepakaran dalam mengendalikan penyelenggaraan maintenance mingguan yang dilakukan setiap minggu dan cara ini telah disampaikan oleh vendor sendiri. Maka maintenance yang dilakukan adalah selaras dengan maintenance yang dilakukan oleh vendor kepada peralatan tersebut.

S: Apa sekalipun saya katakan Dr tidak pernah mengikuti apa-apa kursus penyelenggaraan dan tidak tahu tentang struktur mesin-mesin ini?

J: Tidak setuju.

S: Soalan terakhir, kalau saya katakan bahawa keputusan Dr dalam laporan kimia P31 adalah tidak tepat?

J: Saya tidak setuju.

[12] Looking at the testimony of SP4, and the measures taken to weigh the drugs exhibits, it can be concluded there was no break in chain of evidence. At the same time, there was no serious challenge by the defence counsel that this tantamounts to a break in chain of evidence.

[13] The learned deputy argued that although there were differences in the gross weight and the net weight of the drugs, the chain of evidence was not broken. The difference in weight was merely because of the difference of the weighing machine used in which one was calibrated and the other was not.

[14] In the case of *Lew Wai Loon v Public Prosecutor* [2014] 3 MLJ 325; [2014] 2 CLJ 649 a decision of the Federal Court where His Lordship Richard Malanjum CJ (Sabah & Sarawak) said at p 659 and we quote:

> [26] In other words, an exhibit, in a criminal or a civil trial, is physical or documentary evidence brought before the court. Its admission and reliance upon as a piece of evidence requires factual analysis of the facts and/or events that are relevant not only for its admission as a piece of evidence but that such facts and/or events may also be relied upon to test its reliability and trustworthiness as a piece of evidence. In short it is a fact sensitive exercise.
>
> [27] Accordingly in the present case, we would say that *discrepancies in weight alone of an exhibit such as drug should not ipso facto cast doubt on its identity*. There are other primary factors to consider such as the facts and/or events that form the foundation for its admission as a piece of evidence. One fact and/or event to consider is whether there is any break in handling or custody, which tantamount to a break in chain of evidence. If such event occurred then that should cast a doubt in the exhibit as a reliable and trustworthy piece of evidence.

[15] The argument by the counsel for the appellant that there was a break in chain of evidence was merely on the premise that there were differences in weight of the drugs. We found this argument unsustainable and there was no break in chain of evidence as the drug exhibits from the time of its recovery from the person of the appellant to the handing over to SP4 were always in the custody of the police. There was no physical break and it did not affect the integrity of the evidence.

[16] We therefore rejected this ground of appeal.

[17] The appellant during his cross-examination testified that he had no knowledge of the substance which he swallowed. He further testified that he did it because he was told by Oneka to swallow it. An excerpt of the cross-examination (p 241 AR Vol 3) of the appellant is now produced:

> Q: Do you know that you've been arrested because you swallowed capsules contains dangerous drug?
>
> A: No, I did not agree
>
> Q: Why did you come to Malaysia at the first place?
>
> A: I come to Malaysia because of the silver that brought me to Malaysia.
>
> Q: Before you arrived at Malaysia, where did you come from?

A: I come from Dubai as my transit.

Q: Before transit, where did you are from?

A: I come from Niger, very close to Nigeria.

Q: Do you agree with me that you swallowed 82 capsules in Niger?

A: I agree.

Q: And from Niger you went to Malaysia?

A: I agree.

Q: During the time from Niger, you transit to Dubai and until you arrived at Malaysia, the 82 capsules was in your stomach?

A: I agree.

Q: I put to you that you come to Malaysia because to traffic the drug you swallowed.

A: I disagree that I come to Malaysia for drug traffic.

Q: I put to you that you know the actual substance contain in the capsules you swallowed.

A: I disagree. It's silver.

[18] On the facts of this case we agree with the submission of the learned deputy prosecutor that the defence of the appellant that the capsules were 'silver' was clearly unbelievable. On the evidence disclosed in the appeal records and the facts of the present case there was overwhelming evidence against the appellant. The fact that the drugs were found in the appellant's stomach was not in dispute. The issue of no knowledge was implausible to any reasonable mind. The totality of evidence reasonably supports the conclusion that the appellant was in actual possession at the time he was arrested and detained.

[19] With regard to the issue on having no knowledge of the capsules swallowed being drugs raised by the appellant, we find the defence clearly unbelievable. The court must consider the defences raised by the appellant and must weigh the evidence. In totality, we find that the defence by the appellant was unsustainable.

[20] In this regard, we refer to the decision of this court and to the judgment of His Lordship Zamani A Rahim J in the case of *Abuchi Johnson v Public Prosecutor* [2015] 1 LNS 1225 and we quote:

The Appeal

[14] The sole issue advanced by the appellant was that he had no knowledge of the drugs in the capsules discharged from his abdomen. He was forced by Obi to 'eat'

(swallow) the capsules before he boarded the flight at Lagos airport. He was told by Obi that the capsules which resembled the African food was necessary for him to 'eat' (swallow) to overcome the problems of cold weather and long distance travelling.

[15] Learned counsel contended that the appellant's cooperative conduct at the time of his arrest the KLIA showed that he did not know he had swallowed the capsules containing the drugs.

[16] The appellant's defence of no knowledge of the drugs was supported by his cautioned statement, D28 which the defence claim to have been given at the earliest reasonable opportunity.

Our Decision

[17] Having heard the appeal, we found no merit on the ground raised by the appellant. We therefore unanimously dismissed the appeal and confirmed the conviction and the death sentence imposed by the High Court. We now give our reasons.

[18] Learned counsel argued that it was not disputed that the appellant had sixty six (66) capsules in his abdomen. However the defence submitted that the appellant did not know he had swallowed the drugs in the capsules. Had he knew the capsules contained the drugs; he would not have swallowed them.

[19] Having scrutinised the appellant's story, the trial judge found there were many gaps and questions which remained unanswered. The trial judge found the appellant's story was fraught with unreasonableness and illogicality, namely:

(1) Why would Obi who paid the accused to have his laptop repaired by the Accused was so 'indebted' to the accused that he was willing to pay for the air ticket, gave USD 3,000 for expenses and obtained visa for the accused to come to Malaysia;

(2) The accused said that his life and security were not threatened as Obi only held his jaw to open his mouth for him to swallow the capsules. So the accused had all the opportunity to escape or run away but he did not do so; and

(3) The accused said he did not know what he swallowed. Yes this defence is not an afterthought as it was mentioned in his statement to police (D28), but he had all the opportunity to find out as he was not threatened. If he did not do so, its 'wilful blindness' on his part and he himself to blame. In the Singapore Court of Appeal case of *Ubaka v Public Prosecutor* [1995] 1 SLR 267 at p 273, Kartigesu JA said:

> In the light of these findings, the learned judge had to decide whether the appellant had successfully rebutted the presumptions of knowledge of the presence of the drugs and their nature. He applied the principles laid down in *Warner v Metropolitan Police Commissioner* as modified by *Tan Ah Tee & Anor v Public Prosecutor* and which were reiterated in the recent decision of this court in the case of *Lim Swee Thong v Public Prosecutor* . The learned judge concluded that:
>
> Ignorance is a defence when there is no reason for suspicion and no right

A opportunity of examination, and ignorance simpliciter is not enough. Even if I had accepted what the accused said (which I did not), he was no an innocent custodian. He should have been wary about Mike Udo by the time he was asked to carry the bags and he should check (sic) the bags before taking them with him.

B The learned judge accordingly found the appellant had not rebutted the statutory presumption on a balance of probabilities, and convicted him.

On appeal, the same arguments that were canvassed before the learned judge were canvassed before us. Just as the learned judge found no merit in them, we too did not find any merit in the appellant's contentions and accordingly we C dismissed the appeal and confirmed the sentence of death passed by the learned trial judge on the appellant.

On examining the evidence of the accused, it is not denied or disputed that he had the drugs in his abdomen and discharged them in Malaysia. With many D questions/gaps unanswered, the story of the accused is surely 'highly improbable' (Public Prosecutor v Abdul Rahman Aktif [2007]). Therefore, it cannot rebut the presumption of knowledge and cast a reasonable doubt in the prosecution case.

Further on the defence of wilful blindness, the accused had all the opportunity to E refuse as his life or security was not threatened and he had only himself to blame. He 'should have been wary' when asked to swallow the capsule which he said resembled some African food. This too cannot rebut the presumption of knowledge on the balance of probabilities.

[20] With several questions and gaps remained unexplained, the appellant's version F of the story had failed to cast any reasonable doubt on the prosecution's case. In *Public Prosecutor v Abdul Rahman bin Akif* [2007] 5 MLJ 1; [2007] 4 CLJ 337, Arifin Zakaria FCJ (as he then was) said at p 353:

[27] It is trite law that the court need not be convinced of the defence story to entitle the accused to an acquittal. The burden of proof on the accused is indeed G a light one which is merely to cast a reasonable doubt on the prosecution's case.

[21] His Lordship at p 354 of the judgment said that the accused story was highly improbable and affirmed the conviction imposed by the High Court.

H **[21]** The version of the appellant in that he did not appreciate what he was swallowing were drugs makes it now difficult one for us to 'swallow'. Would a person swallow these pills and take a long journey to Malaysia? Even so, what was more bewildering, what was the need for him to swallow 'silver'? Indeed, the intention to conceal was present. The act and now the consequence in I which the appellant has found himself is certainly was a bitter pill to swallow on hindsight.

[22] Having scrutinised the appeal records, we are satisfied that the evidence against the appellant was overwhelming. We therefore dismissed the appeal and

affirmed the conviction and sentence imposed by the High Court.

Appeal dismissed.

Reported by Kohila Nesan